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11 **UNITED STATES DISTRICT COURT**
12 **NORTHERN DISTRICT OF CALIFORNIA**

14 OYSTER OPTICS, LLC,

15 Plaintiff,

16 v.

17 CIENA CORPORATION,

18 Defendant.
19

Case No. 4:17-cv-05920-JSW

**DECLARATION OF PAUL A. KROEGER
IN SUPPORT OF OYSTER OPTICS,
LLC'S ADMINISTRATIVE MOTION TO
FILE UNDER SEAL**

1 I, Paul Kroeger, state as follows:

2 1. I am a member of the State Bar of California and an attorney at the firm of Russ
3 August & Kabat, counsel for Plaintiff Oyster Optics, LLC (“Oyster”) in the above captioned action.
4 I have personal knowledge of the facts set forth herein, and if called upon to testify, could and would
5 testify competently thereto.

6 2. I submit this declaration in support of Oyster’s Administrative Motion to File Under
7 Seal portions of its Opposition to Ciena Corporation’s Motion for Summary Judgment and certain
8 exhibits to the Kroeger Declaration in Support thereof.

9 3. The highlighted portions of Plaintiff Oyster Optics, LLC’s Response in Opposition
10 to Ciena Corporation’s Motion for Summary Judgment, Plaintiff Oyster Optics, LLC’s Opposition
11 to Ciena Corporation’s Motion to Exclude the Infringement Opinions and Testimony of Plaintiff’s
12 Technical Expert, Keith Goossen, Ph.D., Under Fed. R. Evid. 702 and Daubert, Plaintiff Oyster
13 Optics, LLC’s Opposition to Ciena Corporation’s Motion to Exclude the Validity Opinions and
14 Testimony of Plaintiff’s Technical Expert, Keith Goossen, Ph.D., Under Fed. R. Evid. 702 and
15 Daubert, as well as Exhibits A, D, E-J, M, and S, contain confidential business information of Ciena,
16 including financial information, and technical aspects of the accused products that Ciena has
17 designated as confidential under the protective order and would be harmed if publicly disclosed.
18 Oyster expects that Ciena will file a supporting declaration as required by the local rules. Oyster
19 expects that Ciena will file a declaration establishing that the foregoing documents are sealable
20 pursuant to Civil L.R. 79-5(d)(1)(A).

21 4. The highlighted portions of Plaintiff Oyster Optics, LLC’s Opposition to Ciena
22 Corporation’s Motion to Exclude the Infringement Opinions and Testimony of Plaintiff’s Damages
23 Expert, Stephen Dell, Ph.D., Under Fed. R. Evid. 702 and Daubert concern as well as Exhibit N, P,
24 sensitive financial information concerning licenses Oyster, Ciena, and various third parties have
25 entered into, as well as information related to sales of the Accused Products that Ciena has deemed
26 confidential. In light of the sensitive nature of this information, both to Oyster and third parties,
27 Oyster requests that they be filed under seal.

/s/ Paul A. Kroeger
Paul A. Kroeger